

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
ROBERT T. MEDLEY,

Appellant,

v.

DOUGLAS COUNTY AIR POLLUTION
CONTROL COMMISSION,

Respondent.

PCHB No. 83-17

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal of a \$100 civil penalty for outdoor burning of prohibited materials allegedly in violation of respondent's Regulation I, Article V, Section 5 and the State Clean Air Act, came on for hearing before the Pollution Control Hearings Board; Gayle Rothrock, presiding at Wenatchee the afternoon of July 12, 1983. The hearing was informal and was electronically recorded.

Appellant Medley appeared and represented himself. Respondent Douglas County Air Pollution Control Commission appeared through its counsel, Mark Davis.

1 Witnesses were sworn and testified. An exhibit was examined.
2 From this the Board makes these

3 FINDINGS OF FACT

4 I

5 Regulation I of respondent Douglas County Air Pollution Control
6 Commission (DCAPCC) is noticed.

7 II

8 On February 15, 1983, in the afternoon, appellant allowed refuse
9 to be piled and ignited on his suburban residential property in East
10 Wenatchee.

11 III

12 The fire was some 4 feet high and 12 feet by 15 feet across. It
13 contained refuse collected from six residences, including food cans,
14 bottles, paper products, and other items.

15 IV

16 Respondent's air pollution control officer, responding to a
17 complaint, arrived at the site at 2:00 p.m. and viewed the burning
18 garbage from a neighbor's yard for 5 minutes observing the
19 above-described fire pile. The fire was not being tended. It was
20 emitting a dark grey smoke described as smelling terrible.

21 V

22 Douglas County Fire District #2, the authority charged with
23 issuing burning permits for that area, has no record of issuing a
24 permit for the appellant's residence valid for that day for the
25

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1 burning of natural vegetation or any other material. At the fire
2 district stations the public is informed of open burning restrictions
3 by reading the back side of a permit.

4 VI

5 Appellant has obtained open burning permits in the past for some
6 purpose but has no prior record of any violation of respondent's
7 regulations.

8 VII

9 Any Conclusion of Law which should be deemed a Finding of Fact is
10 hereby adopted as such.

11 From these Findings the Board comes to the following

12 CONCLUSIONS OF LAW

13 I

14 The Legislature of the State of Washington has enacted the
15 following policy on outdoor fires:

16 It is the policy of the State to achieve and maintain
17 high levels of air quality and to this end to
18 minimize to the greatest extent reasonably possible
19 the burning of outdoor fires. Consistent with this
20 policy, the Legislature declares that such fires
21 should be allowed only on a limited basis under
22 strict regulation and close control. (RCW 70.94.740)

23 The respondent agency has adopted its Regulation I, Article V,
24 Section 5.01 which says, in pertinent part, that no person shall
25 ignite or cause, permit, suffer or allow to be maintained an open fire
26 containing garbage and other materials which emit dense smoke and
27 obnoxious odors.

28 In allowing someone to ignite and burn a quantity of domestic

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1 refuse in his back yard, appellant Medley violated DCAPCC Regulation
2 I, Article V, Section 5.01(7) and RCW 70.90.775, a provision of the
3 Washington State Clean Air Act.

4 II

5 Because the violation committed by appellant is the first of
6 record against respondent's regulations, and appellant did not obtain
7 a burning permit, the amount of the civil penalty assessed, which was
8 less than the \$250 maximum, appears appropriate.

9 III

10 Any Finding of Fact which should be deemed a Conclusion of Law is
11 hereby adopted as such.

12 From these Conclusions the Board enters this


13 ORDER

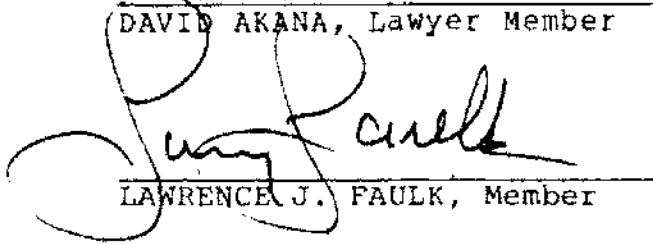
14 The Douglas County Air Pollution Control Commission subject Notice
15 of Violation and Civil Penalty issued to Robert Medley is affirmed.

16 DONE this 2nd day of August, 1983.

17 POLLUTION CONTROL HEARINGS BOARD

18 
19 GAYLE ROTHROCK, Chairman

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23 DAVID AKANA, Lawyer Member

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25 
26 LAWRENCE J. FAULK, Member

27 FINAL FINDINGS OF FACT,
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